

IN THE DRAWINGS

The attached sheet of drawings includes changes to Figure 12A. This sheet, which includes Figure 12A, replaces the original sheet including Figure 12A.

Attachment: Replacement Sheet

REMARKS

Favorable reconsideration of this application, in view of the present Amendment and in light of the following discussion, is respectfully requested.

Claims 1-43 are currently pending. The present Amendment amends Claims 1, 2, 9, 10, 14, 15, 18, 19, 24, 27-29, 35, 36, and 40. The amendments to the claims are supported by the originally filed specification, for example, at page 8, lines, 20-31. Thus, Applicants respectfully submit that the amendments to the claims do not add new matter.

The outstanding Office Action objected to Claim 14 due to informalities; rejected Claims 1-43 as unpatentable over Claims 1-43 of U.S. Patent No. 6,684,276 in view of U.S. Patent No. 6,678,669 to Lapointe et al. on the grounds of nonstatutory obviousness-type double patenting; rejected Claims 1-8, 11, 13-21, 24, 26-34, 37, 39, and 40-43 under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent No. 6,754,655 to Segal et al. in view of Lapointe; rejected Claims 9, 12, 22, 25, 35, and 38 under 35 U.S.C. § 103(a) as unpatentable over Segal in view of Lapointe and further in view of U.S. Publication No. 2003/0187688 to Fey et al.; and rejected Claims 10, 23, and 36 under 35 U.S.C. § 103(a) as unpatentable over Segal in view of Lapointe and further in view of U.S. Publication No. 2002/0065854 to Pressly.

Applicants would like to thank Examiner Le for the interview granted to Applicants' representatives on November 2, 2006. During the interview, Claim 1 was discussed in view of the applied references. Applicants' representatives argued that the applied references disclosed apparatuses that require the physician to first input findings in order to produce a diagnosis. In response, Examiner Le suggested that Claim 1 be amended to clarify that the diagnosis specific pre-populated templates are produced in response to a diagnosis entered by a physician. The substance of that interview is reflected in the amended claims, and in the arguments set forth below.

Claim 14 was objected to in the outstanding Office Action due to an informality. As suggested by the outstanding Office Action, the term "a the diagnosis" is amended to "the diagnosis." Accordingly, Applicants respectfully request that the objection to Claim 14 be withdrawn.

Amendments to the specification are made to correct minor informalities. Applicants respectfully submit that no new matter is added.

Regarding the rejection of Claims 1-43 on the grounds of nonstatutory obviousness-type double patenting over Claims 1-43 of U.S. Patent No. 6,684,276 in view of Lapointe, Applicants submit herewith a terminal disclaimer against U.S. Patent No. 6,684,276. Accordingly, Applicants respectfully request that the rejection of Claims 1-43 on the grounds of nonstatutory obviousness-type double patenting be withdrawn.

Claims 1-8, 11, 13-21, 24, 26-34, 37, 39, and 40-43 were rejected under 35 U.S.C. § 103(a) as unpatentable over Segal in view of Lapointe. In response to this rejection, Applicants respectfully submit that amended independent Claims 1, 14, 27, and 40 recite novel features clearly not taught or rendered obvious by the applied references.

Amended independent Claim 1 recites, in part:

**said interface is configured to receive an input of a diagnosis entered by said physician, and, in response to the entered diagnosis, the interface is configured to output one or a plurality of said diagnosis specific pre-populated templates that correspond with the diagnosis entered by the physician,**

As discussed in the background portion of the specification, conventional methods and systems for documenting patient encounters are time consuming and difficult to use due to the amount and complexity of the data involved. To create a record of a patient encounter using a conventional system, a physician would be required to enter many different symptoms in order to diagnose the patient's illness or injury.

The present inventors recognized the shortcomings of the conventional methods and systems, and arrived at a patient encounter electronic medical record apparatus and method wherein the required physician input is significantly reduced. A physician will diagnose a patient's injury or illness and enter that diagnosis into the patient encounter electronic medical record apparatus. In response to the physician's input, the medical record apparatus generates one or more diagnosis specific pre-populated templates that correspond to the physician's diagnosis. Therefore, the required input by the physician to create a record of the patient encounter is significantly reduced.

Amended independent Claims 14, 27, and 40, while directed to alternative embodiments, recites similar features as amended Claim 1. Therefore, the remarks presented below are applicable to Claims 14, 27, and 40, as well as independent Claim 1.

Turning to the applied references, Segal describes systems and methods for diagnosing medical conditions. In addressing the features directed to the above-emphasized "user interface," as recited in Claim 1, the outstanding Office Action relies on column 3, lines 9-20, column 10, lines 45-58, column 5, lines 20-43 and column 3, lines 27-34 of Segal.

The cited portion of Segal describes a system for diagnosing medical conditions based upon findings which the physician has entered into the medical diagnosis system. For example, cited column 10, line 45 of Segal, states "[o]nce the clinician has entered the **findings** into the system..." (emphasis added). The required findings, as described in Segal, include the patient's symptoms, physical signs, and laboratory test results.<sup>1</sup> Based upon the findings entered into the system by the physician, the medical diagnosis system can display a list of findings along with a graphical component that depicts the frequency of each finding in the particular disease being displayed. Therefore, Segal describes a method and a system for generating a probability that a diagnosis is correct based upon the **findings** entered into the

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<sup>1</sup> See Segal, at column 1, lines 21-32.

system by the physician. Thus, these “findings” are not a diagnosis as recited in the pending independent claims.

Specifically, amended independent Claim 1 recites that the physician first makes a **diagnosis** and then enters the diagnosis into an interface which, in response to the entered diagnosis, outputs one or more diagnosis specific pre-populated templates that correspond with the physician’s diagnosis. A diagnosis refers to the patient’s medical condition.<sup>2</sup> Thus, a physician who has already made a diagnosis does not have to enter all of the findings in to the apparatus in order to generate a record of the patient encounter.

The outstanding Office Action states that Lepointe describes diagnosis specific pre-populated templates being configured to enable said physician to perform said diagnosis in at least one of an office setting, a surgery setting, and analogies of setting, and the therapy setting. Applicants respectfully submit that Lapointe does not teach or suggest the above-emphasized “user interface,” as recited in amended Claim 1. Instead, Lapointe describes a method for selecting medical and biochemical diagnostic tests using neural network related applications. Similarly to Segal, Lapointe describes a diagnostic system requiring input of significant data (i.e. findings) to reach a diagnosis.

Neither Segal nor Lapointe teach or suggest the above-emphasized “user interface,” as recited in amended Claim 1. Therefore, assuming that the combination of Segal and Lapointe is proper, the combination fails to teach or suggest every element of amended Claim 1. Accordingly, Applicants respectfully submit that the rejection of Claim 1 based upon Segal in view of Lapointe is improper and traverses the rejection as failing to establish a valid *prima facie* case of obviousness. Therefore, Applicants respectfully request that the rejection of Claim 1 as unpatentable over Segal in view of Lapointe be withdrawn. Additionally, as Claims 2-8, 11, and 13 depend from Claim 1, Applicants also request withdrawal of this

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<sup>2</sup> See Segal, at column 1, lines 47-67.

rejection as Claims 2-8, 11, and 13 include all of the subject matter of Claim 1 as well as adding further features not taught or suggested by the applied references. Independent Claims 14, 27 and 40 contain analogous language to amended Claim 1. Therefore, Applicants also request withdrawal of this rejection with respect to Claims 14, 27 and 40, and the claims depending therefrom.

Turning now to the rejection under 35 U.S.C. § 103(a) of Claims 9, 10, 12, 22, 23, 25, 35, 36, and 38, Applicants respectfully traverse these rejections. As discussed above, independent Claims 1, 14, and 27 are allowable. As Claims 9, 10, 12, 22, 23, 25, 35, 36, and 38 depend from allowable independent claims, Applicants respectfully request withdrawal of these rejections.

Consequently, in view of the present Amendment, no further issues are believed to be outstanding in the present application, and the present application is believed to be in condition for formal allowance. A Notice of Allowance is earnestly solicited. Should the Examiner deem that any further action is necessary to place this application in even better form for allowance, the Examiner is encouraged to contact Applicants' undersigned representative at the below listed telephone number.

Respectfully submitted,

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